



TOWN OF DISCOVERY BAY

A COMMUNITY SERVICES DISTRICT



SDLF Platinum-Level of Governance

President – Bill Pease • Vice-President – Bryon Gutow • Director – Kevin Graves • Director – Robert Leete • Director – Bill Mayer

February 19, 2020

The Honorable Todd Gloria
California State Assembly
State Capitol
Sacramento, CA 95814

RE: Assembly Bill 2093 (Gloria) – Oppose [As Introduced]

Dear Assembly Member Gloria:

The Discovery Bay Community Services District is respectfully opposed to your Assembly Bill 2093, which will require all public agencies to maintain all transmitted emails related to agency business for at least two years. The Discovery Bay Community Services District provides water, wastewater, parks and recreation services to over 15,000 residents.

To be clear, this is not a transparency bill, it is a data storage bill. The public will have no greater access to public records under AB 2093, nor will they have less. This bill creates no new disclosures or exemptions of records. This bill only mandates that public agencies retain all emails related to agency business for two years and avoids the constitutionally-required mandate subvention process declaring that the provisions of the bill are in furtherance of the California Public Records Act (CPRA).

While this measure is intended to improve public access to government records, in practice it will merely increase the burdens for both public agencies and CPRA requesters. The vast majority of emails consist of auto-replies, spam, and insignificant routine communications of minimal public interest. As the bulk of these emails increases, the burden to search through them and locate responsive records in the event of a CPRA request rises accordingly. Under the CPRA, the requester may be required to bear the cost of this data extraction - and indiscriminately mandating that emails be retained will thus make CPRA requests more expensive, perversely impeding public access. Moreover, for those costs that cannot be passed on to the requester, the public agency has no source for reimbursement, and must divert funds from other public programs. Compelling public agencies to retain masses of routine emails - which neither the sender nor recipient otherwise thought important enough to save - imposes significant burdens on all concerned for minimal public benefit. This point is corroborated by the Department of Finance's analysis of AB 1184 (Gloria, 2019), a bill that is completely identical to AB 2093 that was vetoed by Governor Newsom. In their analysis of AB 1184, the Department of Finance wrote that "[t]he retention of non-pertinent e-mails and the need to search through those e-mails, particularly for less specific CPRA requests, increases the amount of time needed to complete CPRA requests. This makes compliance with the CPRA more difficult in these instances and produces worse outcomes for persons and entities submitting those requests [emphases added]."

To further underscore this point, the Governor's veto message of AB 1184 read "[t]his bill does not strike the appropriate balance between the benefits of greater transparency through the public's access to public records, and the burdens of a dramatic increase in records-retention requirements, including associated personnel and data-management costs to taxpayer."

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AB 2093 will add millions of dollars in costs annually to the state and local agencies, including school districts. Public agencies will be forced to pay for additional data storage space as well as hire additional staff to sort through the millions of emails that are exempt from disclosure under the CPRA but mandated to be retained under AB 2093 in order to respond to public records act requests. Without the ability to be reimbursed for this costly unfunded mandate, public agencies will be forced to either raise fees and taxes or cut services to the communities they serve.

It is for these reasons that the Discovery Bay Community Services District must respectfully oppose AB 2093 (Gloria). Should you have any questions about our position, please feel free to contact us.

Sincerely,



Michael R. Davies
General Manager
Discovery Bay Community Service District

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